

Message Text

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TO ALL DIPLOMATIC POSTS

CINCPAC

USCINCEUR

INFO AMEMBASSY TAIPEI

C O N F I D E N T I A L STATE 230393

CINCPAC AND USCINCEUR FOR POLADS, KUWAIT POUCH BAGDAD

FOLLOWING REPEAT USUN 3726 ACTION SECSTATE 15 SEP 76

QUOTE C O N F I D E N T I A L USUN 3726

FROM US LOS DEL

E.O. 11652: GDS

TAGS: PLOS

SUBJECT: LOS: CLASSIFIED WEEKLY SUMMARY LAW OF THE SEA CONFERENCE
SEPTEMBER 6-10, 1976

COMMITTEE I

1. COMMITTEE I CONCLUDED ITS BUSINESS EARLY LAST WEEK
WITHOUT TAKING UP THE MATTER OF THE ASSEMBLY AND COUNCIL
IN VIEW OF THE LACK OF TIME FOR FULL DISCUSSION AT THIS
SESSION. THE COMMITTEE THEN WENT INTO FORMAL ON-THE-RECORD
SESSION TO REVIEW THE CO-CHAIRMAN'S REPORT ON ACTIVITIES
IN THE WORKSHOP. HARDLINE STATEMENTS WERE MADE BY ALGERIA,
IRAQ, TANZANIA, AND COLOMBIA, BUT WERE COUNTERED SHARPLY
BY SURPRISINGLY MODERATE STATEMENTS BY MEXICO, SENEGAL,
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PERU, IVORY COAST, JAMAICA, CAMEROON AND GUATEMALA. A

COMMON THEME OF THE LATTER INTERVENTIONS WAS THAT ONE REASON FOR THE LACK OF PROGRESS THIS SESSION WAS THE LIMITED PERIOD AVAILABLE BETWEEN THE TWO NEW YORK MEETINGS IN WHICH TO DIGEST THE RSNT AND DEVELOP NEW POSITIONS AND THAT LL DELEGATIONS AND GROUPS SHOULD COME TO THE NEXT SESSION PREPARED TO MAKE THE HARD POLITICAL COMPROMISES NECESSARY TO REACH AGREEMENT. THESE DELEGATIONS ALSO EMPHASIZED THAT A KEY QUESTION THAT HAD TO BE DEALT WITH WAS THE FINANCING OF THE ENTERPRISE.

2. THE US MADE ITS STATEMENT ON FRIDAY AND TOOK THE OPPORTUNITY TO SUMMARIZE FOR THE RECORD THE SECRETARY'S PROPOSALS ON THE ENTERPRISE AND THE REVIEW CONCEPT. WE INDICATED THAT A DETAILED ELABORATION COULD ONLY COME AFTER THE GROUP OF 77 ACCEPTED THE PARALLEL SYSTEM WITH GUARANTEED ACCESS FOR STATES AND PRIVATE COMPANIES. THE U.S. ALSO STRESSED THAT THE RESULTS OF THIS SESSION SHOULD BE A CLEAR INDICATION THAT THE US AND OTHER MAJOR INDUSTRIALIZED STATES HAD REACHED THEIR MINIMUM POSITION. ON THE OTHER HAND, THE GROUP OF 77 FINAL POSITIONS WERE NOT CLEAR AND WOULD NOT BE UNTIL THE COMMITTEE ADOPTED PROCEDURES, INCLUDING PERHAPS VOTING, WHICH WOULD FORCE DECISIONS TO BE TAKEN.

3. THE COMMITTEE WILL CONTINUE THE GENERAL DEBATE ON SEPTEMBER 14 TO HEAR THE FEW REMAINING SPEAKERS. CHAIRMAN ENGO WILL GIVE HIS FINAL REPORT TO THE PLENARY ON FRIDAY, AND WHILE WE HAVE NO IDEA OF WHAT THIS REPORT WILL CONTAIN, ENGO'S STATEMENTS TO THE GENERAL COMMITTEE ON SEPTEMBER 13 PICKED UP MOST OF THE THEMES PURSUED BY THE US ON FRIDAY.

COMMITTEE II:

4. MEETINGS OF THE COMMITTEE AS A WHOLE SITTING IN INFORMAL SESSION ON ITEMS OTHER THAN THOSE PREVIOUSLY DESIGNATED BY THE CHAIR AS PRIORITY ISSUES. THE ITEM ATTRACTING THE MOST ATTENTION WAS ARTICLE 20(2) ON DESIGN, CONSTRUCTION, MANNING, AND EQUIPMENT STANDARDS IN THE TERRITORIAL SEA. OTHER ITEMS RECEIVING SOME ATTENTION WERE ENCLOSED AND SEMI-ENCLOSED SEAS, THE CONFIDENTIAL

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BREADTH OF THE TERRITORIAL SEA, BASELINES, AND ARCHIPELAGOES. THE U.S. INTERVENED ON THE TRANSITIONAL ARTICLE POINTING OUT ITS INAPPROPRIATENESS IN THIS TREATY AND REMINDING DELS OF OUR AMENDMENT. DEBATE ON MISCELLANEOUS ITEMS WAS INCLUSIVE, AND IT IS CLEAR CHAIR WILL PERMIT NO FURTHER DISCUSSION ON THEM THIS SESSION.

5. THE STRAITS NEGOTIATING GROUP MET TWICE. MALAYSIAN AMENDMENTS TO THE STRAITS ARTICLES RECEIVED SUBSTANTIAL ATTENTION, CAUSING MARITIME STATES TO INDIVIDUALLY APPROACH CHAIRMAN AND AMKE CLEAR THAT FORMATION OF ANY SPECIAL NEGOTIATING GROUP ON THIS ISSUE WOULD BE UNACCEPTABLE. US DEL ADVISED CHAIR U.S. WOULD NOT PARTICIPATE IN ANY SUCH GROUP. DEBATE CONTINUES IN NEGOTIATING GROUP WEDNESDAY. IT IS UNLIKELY THE ISSUE WILL BE CARRIED FURTHER AT THIS SESSION.

6. THE DELIMITATION GROUP MET TWICE, BUT DEBATE WAS ESSENTIALLY BILATERAL. CANADIANS AND SPANISH SUGGESTED AMENDMENTS PUTTING EMPHASIS ON MEDIAN LINE AS A SOLUTION TO DELIMITATION PROBLEMS, BUT CANADA HAS SUBSEQUENTLY MODIFIED THE PROPOSAL TO PRIVDE A BALANCE BETWEEN THE MEDIAN LINE AND OTHER LINES AS A MEANS OF DOING EQUITY. A SMALL GROUP WAS ESTABLISHED TO DEAL FURTHER WITH THIS PROBLEM.

7. AS THE WORK OF THE COMMITTEE NEARS COMPLETION FOR THE THIS SESSION, IT IS CLEAR THERE WILL BE NO BREAKTHROUGHS ON MAJOR ISSUES. THE TEXT OF PART II IS NOT LIKELY TO BE CHANGED, ALTHOUGH THE CHAIRMAN MIGHT USE THE MEDIUM OF HIS REPORT TO SUGGEST POSSIBLE COMPROMISES.

COMMITTEE III

8. MARINE POLLUTION. WHILE THERE WERE SEVERAL SMALL GROUP DISCUSSIONS ON QUESTION OF TERRITORIAL SEA STANDARDS, NO COMPROMISE WAS REACHED AND ISSUE WILL REMAIN OPEN FOR FUTURE NEGOTIATIONS. DISCUSSIONS ON OTHER POLLUTION TEXTS TERMINATED WITH A FEW CHANGES GENERALLY AGREED INCLUDING A NEW TEXT ON ARTICLE 21, PARA. 5. THAT
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ARTICLE PROVIDES CLEARER BASIS FOR ESTABLISHING REGULATIONS FOR SPECIAL AREAS AND SPECIFIES THAT COMPETENT INTERNATIONAL ORGANIZATION (IMCO) SHALL HAVE DETERMINING RULE REGARDING SUCH REGULATIONS.

9. MARINE SCIENTIFIC RESEARCH. AUSTRALIA CONTINUED TO CONSULT PRIVATELY ON ITS COMPROMISE PROPOSAL BASED ON CONSENT CONCEPT BUT LIMITING LIST OF CRITERIA ALLOWING CONSENT TO BE WITHHELD. AUSTRALIAN REP REPORTED GOOD REACTIONS FROM A NUMBER OF COASTAL STATES BUT ONLY AS A FINAL COMPROMISE AND NOT AS A BASIS FOR FURTHER NEGOTIATIONS. IN FORMAL COMMITTEE III MEETING, CHAIRMAN YANKOV SAID THAT BASIC ISSUE OF ARTICLE 60 REGIME FOR SCIENTIFIC RESERACH WAS STILL OPEN. HE SUMMARIZED DEBATES, STATING THAT SOME TYPE OF CONSENT CONCEPT WAS NECESSARY, IN HIS OPINION, TO

ACHIEVE COMPROMISE. HE CHARACTERIZED QUALIFIED CONSENT CONCEPT AS A MIDDLE POSITION AND INTRODUCED HIS PRIVATE TEST PROPOSAL AS A POSSIBLE COMPROMISE. U.S. STATED THAT TEST PROPOSAL WAS WORSE THAN RSNT AND THAT EVEN RSNT WAS NOT AN ACCEPTABLE COMPROMISE. SOME DEVELOPING COUNTRIES (KENYA, BRAZIL, TANZANIA, SOLALIA) REJECTED BOTH TEXTS ON GROUNDS OF BEING TOO FAR FROM COASTAL POSITIONS. DISCUSSION WILL CONTINUE THIS WEEK.

DISPUTE SETTLEMENT:

1. USSR, ISRAEL AND FRANCE SOUGHT TO RESTRICT THE RIGHT OF INTERVENTION IN ARTICLES 32 AND 33 TO AVOID GRANTING SUCH RIGHT TO ENTITIES OTHER THAN STATES, AND TO ALLOW INTERVENTION WITHOUT MAKING THE DECISIONBINDING ON THE INTERVENOR. THE NETHERLANDS PROPOSED A METHOD OF ALLOWING CONTRACTING PARTIES TO SUBMIT STATEMENTS ON A QUESTION OF INTERPRETATION OR APPLICATION OF THE LOS CONVENTION TO BE MODELLED ON THE PROCEDURE USED IN THE ICJ FOR ADVISORY OPINION CASES. THE US SUGGESTED THAT TWO OR MORE CONTRACTING PARTIES IN CONCERT SHOULD BE ABLE TO ASK FOR AN ADVISORY OPINION FROM THE LOS TRIBUNAL.

11. THE DEVELOPING COUNTRIES SOUGHT DELETION OF ANNEX II RELATING TO SPECIAL PROCEDURES, WHILE THE EUROPEANS AND JAPAN DEFENDED THE ANNEX. THE USSR SAID IT COULD NOT
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SUPPORT ANY COMPULSORY DISPUTE SETTLEMENT IF ANNEX II IS DELETE, AND POLAND PROPOSED AMENDMENTS MAKING THE SPECIAL PROCEDURES MORE LIKE TECHNICAL ARBITRATION. SCRANTON. UNQUOTE HABIB.

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